

EXECUTIVE CHAMBERS

HONOLULU

July 10, 2006

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 1800

Honorable Members
Twenty-Third Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 1800, entitled "A Bill for an Act Relating to Sale of Real Property."

This measure increases the income tax withheld on the sale of real property in Hawaii by a nonresident seller from five percent to eight and a quarter percent of the amount realized from the sale.

This bill unnecessarily increases the income tax withholding on the sale of real property by nonresident sellers to ensure proper payment of taxes owed to the State are paid. The Department of Taxation reported that the current withholding of five percent is already excessive and large refunds are being issued because the five percent withholding is almost always larger than the tax on the gains on the sale of the property. Further, this bill fails to recognize that many land transactions involve 1031 exchanges wherein the seller is not liable for taxes if they purchase a property of the same or higher value within 18 months.

Moreover, this bill does not increase tax revenue or affect the proper assessment of tax because the capital gains tax remains unchanged at seven and a quarter percent. Instead, this bill will increase the burden on the Department of Taxation to process more claims and issue more refunds to taxpayers.

It should be noted that when the withholding tax rate was previously increased, the Legislature had to reverse their

STATEMENT OF OBJECTIONS
HOUSE BILL NO. 1800
Page 2

decision within a short period of time. In 1990, Act 213 required a buyer to withhold nine percent of the amount realized on the sale of Hawaii real property from a nonresident seller. Due to the overwhelming dissatisfaction expressed by the public, the Legislature in the very next session reduced the withholding amount to the current five percent by Act 279, Session Laws of Hawaii 1991. In effect, Act 213 of 1990 was operative for only seven months (i.e., January 1, 1991, through July 31, 1991).

For the foregoing reasons, I am returning House Bill No. 1800 without my approval.

Respectfully,

A handwritten signature in black ink, appearing to read "Linda Lingle", with a stylized flourish at the end.

LINDA LINGLE
Governor of Hawaii